

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Bail Appl..No. 7166 of 2007()

CRMP.3163/2007 of J.M.F.C.-I, PERINTHALMANNA
CRIME NO.814/07 OF PERINTHALMANNA POLICE STATION
.....

: PETITIONER/2ND ACCUSED:

LIYAKATH ALI, S/O. MOIDEENKUTTY,
PALEKKODAN HOUSE, NENMINI AMSOM,
AKKAPARAMBA DESOM, PERINTALMANNA TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS: COMPLAINANT:

THE STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
PERINTALMANNA THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SHRI S.V.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

.....
B.A. No. 7166 OF 2007
.....

Dated this the 28th day of November, 2007

O R D E R

Application for regular bail. The petitioner is the 2nd accused. Altogether there are two accused persons. It is alleged that the two accused persons, one after other, committed rape on 17.10.07 on the victim, a girl aged about 11 years, a student in an orphanage. When the girl had gone to a canteen/tea shop near her school, the first accused took her to the bathroom and committed rape. Thereafter, the 2nd accused came to the bathroom. The girl was raped by the 2nd accused also. The girl cried in pain and went back to the school. An alert teacher of the school later found marks on the face of the girl. She enquired with the child, who appears to have consented and received some consideration also. She was compelled to reveal to the teacher the details of what happened. The teacher passed on the information to an aunt of the girl. The girl's mother is badly ill, it is submitted. Her father visits their house rarely, it is submitted. It is the aunt of the girl, who took the girl to the police station and

F.I.Statement was registered on 3.11.07. The petitioner was arrested on 4.11.07. The first accused surrendered on 19.11.07. They both continue in custody from the respective dates of arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. At any rate, the petitioner, who continues in custody from 4.11.07, may now be enlarged on regular bail, submits the learned counsel.

3. The learned counsel urges that the aunt of the victim girl is a woman of bad reputation and it is at her instance that the false allegations were raised against the petitioner.

4. The learned Public Prosecutor opposes the application. The allegations are serious. Investigation is not complete. At any rate, the petitioner is not entitled to be released on bail at this early stage of investigation, submits the learned Public Prosecutor.

5. I have considered all the relevant inputs. I find merit in the opposition of the learned Public Prosecutor. The case diary has been perused by me. The statement of the teacher, who elicited the information from the victim, is also available in the case

diary. I shall not embark on a detailed discussion on the acceptability of the allegations or the credibility of the data collected. I am satisfied that there is merit in the opposition of the Public Prosecutor and the petitioner is not entitled to be enlarged on bail at this early stage of investigation.

6. In the result, this petition is dismissed. However, I may hasten to observe that the petitioner shall be at liberty to move this court or the Sessions court for bail again at later stages of the investigation not, at any rate, prior to 12/12/2007. The investigator shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

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